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7  
8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Statement of Issues Against:

Case No. 3945

11 **KA'MESHA STAPLES**  
12 **2320 90th Avenue, Apt. # 3**  
13 **Oakland, CA 94603**

**STATEMENT OF ISSUES**

14 **Applicant for Pharmacy Technician License**

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Virginia Herold (Complainant) brings this Statement of Issues solely in her official  
19 capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

20 2. On or about October 7, 2008, the Board of Pharmacy, Department of Consumer  
21 Affairs received an Application for Registration as a Pharmacy Technician from Ka'Mesha  
22 Staples (Respondent). On or about September 12, 2008, Respondent certified under penalty of  
23 perjury as to the truthfulness of all statements, answers, and representations in the Application.  
24 The Board denied the Application on May 19, 2010.

25 **JURISDICTION**

26 3. This Statement of Issues is brought before the Board of Pharmacy (Board),  
27 Department of Consumer Affairs, under the authority of the following laws. All section  
28 references are to the Business and Professions Code (Code) unless otherwise indicated.

STATUTORY AND REGULATORY PROVISIONS

4. Section 4300, subdivision (c), of the Code states:

“(c) The board may refuse a license to any applicant guilty of unprofessional conduct. The board may, in its sole discretion, issue a probationary license to any applicant for a license who is guilty of unprofessional conduct and who has met all other requirements for licensure. The board may issue the license subject to any terms or conditions not contrary to public policy . . . .”

5. Section 4301 of the Code provides, in pertinent part, that “unprofessional conduct” is defined to include, but not be limited to, any of the following:

(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or corruption, whether the act is committed in the course of relations as a licensee or otherwise, and whether the act is a felony or misdemeanor or not.

(l) The conviction of a crime substantially related to the qualifications, functions, and duties of a licensee under this chapter.

6. Section 480 of the Code states, in pertinent part:

“(a) A board may deny a license regulated by this code on the grounds that the applicant has one of the following:

“(1) Been convicted of a crime. . . . Any action which a board is permitted to take following the establishment of a conviction may be taken . . . irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code.

“(2) Done any act involving dishonesty, fraud or deceit with the intent to substantially benefit himself or another; or substantially injure another; or

“(3) Done any act which if done by a licentiate of the business or profession in question, would be grounds for suspension or revocation of license.

“The board may deny a license pursuant to this subdivision only if the crime or act is substantially related to the qualifications, functions or duties of the . . . [license].”

. . .

“(c) A board may deny a license regulated by this code on the ground that the applicant knowingly made a false statement of fact required to be revealed in the application . . . .”

1           7.     California Code of Regulations, title 16, section 1770, states:

2           “For the purpose of denial, suspension, or revocation of a personal or facility license  
3 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
4 crime or act shall be considered substantially related to the qualifications, functions or duties of a  
5 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
6 licensee or registrant to perform the functions authorized by his license or registration in a manner  
7 consistent with the public health, safety, or welfare.”

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9                                   FIRST CAUSE FOR DENIAL OF APPLICATION

10                               (Conviction of Substantially Related Crime(s))

11           8.     Respondent's application is subject to denial under the following section(s) of the  
12 Code: 480(a)(1); 480(a)(3) by reference to 4301(l); and/or 4300(c) by reference to 4301(l) and  
13 California Code of Regulations, title 16, section 1770, for conviction of a substantially related  
14 crime, in that on or about March 9, 2006, in a case titled *People v. Kamesha Laverius Staples*,  
15 Case No. 390196-2 in Alameda County Superior Court, Respondent was convicted of violating  
16 Penal Code section 484(a) (Petty Theft), a misdemeanor, as follows:

17               a.     On or about January 9, 2006, based on an incident that took place on or about  
18 December 13, 2005, during which Respondent was alleged to have stolen merchandise from a  
19 Macy's store in Hayward, CA, with a value of less than \$400.00, Respondent was charged in  
20 Case No. 390196-2 with violating Penal Code section 484(a) (Petty Theft), a misdemeanor.

21               b.     On or about March 9, 2006, Respondent pleaded nolo contendere and was  
22 found guilty of the charged offense. Imposition of sentence was suspended in favor of a period of  
23 court probation of thirty-six (36) months, on terms and conditions including time served (1 day)  
24 in County Jail, a stay-away order from the Macy's store in Hayward, CA, and fines and fees.

25               c.     On or about December 18, 2009, the plea and verdict of guilty in Case No.  
26 390196-2 were set aside and vacated and a plea of not guilty was entered, and the complaint was  
27 dismissed, pursuant to Penal Code section 1203.4.

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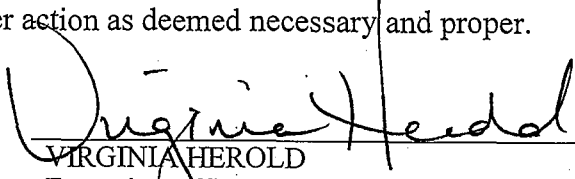
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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Denying the application of Ka'Mesha Staples to be a pharmacy technician;
2. Taking such other and further action as deemed necessary and proper.

DATED: 7/14/11

  
VIRGINIA HEROLD  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

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